IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1457 OF 2006

Shri Mahadev Baban Pawar ...Applicant

V/s

The State of Maharashtra ...Respondent.

Mr. S.M. Borkar for the applicant.
Ms. Rajeshree M. Gadhvi, APP for the State.

CORAM: V.M. KANADE, J.

DATE: 5th May, 2006

P.C.

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. The applicant is arrested after 10 years in connection with the FIR which was lodged on 15/10/1995 for an offence punishable under section 302, 498(A) of the Indian Penal Code and the said offence is registered vide C.R. No.99 of 1995 with Jejuri Police Station, Pune.

3. There was a dispute between the complainant and the applicant. Both of them got married and out of the said marriage, five children were born. However, on account of dispute, the complainant left the matrimonial house and took two children with her

and started staying with her parents. Three daughters, however, remained with the present complainant. A well was constructed by the applicant on his land and, on the date of the incident, his three daughters drowned in the said well. The applicant was not to be found and the mother was informed about their death and a complaint was lodged by her.

4. There is no material on record to indicate that the applicant had deliberately thrown these three daughters in the well. There is no eye witness who has seen the incident. The applicant was arrested after 10 years. There is no material on record to show that the applicant was involved in the commission of the said offence. The inquest panchanama discloses that there were no injuries on the person of the two daughters and there was minor bruise on the back of the third daughter. The spot panchanama also discloses that there is a slippery place near the well which was not properly constructed. The possibility of accidental death, therefore, also cannot be ruled out at this stage of considering the question of grant of bail. Considering these facts, in my view, the applicant will have to be released on bail.

5. The applicant be released on bail in the sum of Rs 5000/- with one or two sureties in the like amount. The applicant shall report to the Jejuri Police Station as and when called and otherwise shall report to the said Police Station once in a month. He shall not abscond or tamper with the evidence and threaten the witnesses.

6. The trial court shall not be influenced by any observations made by this Court while deciding this application and the same may not be construed as an expression of opinion on the merits of the case. The trial court shall decide the case on its own merits and in accordance with law.

7. Application is accordingly disposed of.

V.M. KANADE, J.